

Approved as Submitted: September 17, 2003

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR REDEVELOPMENT
AND SPECIAL CITY COUNCIL MEETING
MINUTES – AUGUST 27, 2003**

CALL TO ORDER

Agency/Council Member Tate called the special meeting to order at 5:07 p.m.

ROLL CALL ATTENDANCE

Present: Agency/Council Members Carr, Sellers, Tate
Late: Vice-Chair/Mayor Pro Tempore Chang (arrived at 5:09 p.m.)
Absent: Chairperson/Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

Redevelopment Agency Action

WORKSHOP:

1. ART IN PUBLIC PLACES

Executive Director Tewes informed the Agency Board that a couple of months ago, the Agency Board established a series of goal statements regarding art. The Agency Board requested a follow-up workshop on art in public spaces. He stated that staff has a short presentation to make to the Agency Board. Following the short staff presentation, the Agency Board may wish to ask questions and comment. He noted that there are individuals in attendance who would like to address the Agency Board on this topic.

Vice-chair Chang entered and took her seat on the dias.

Business Assistance and Housing Services Manager Maskell presented the staff report on public art. She indicated that the Agency Board received a presentation on this topic in December 2002 at which time the Agency Board directed staff to bring back a discussion guide with the options for establishing an art board, funding, etc. In February 2003, the Agency Board adopted two goals in its goal setting session: 1) Support the efforts of the Morgan Hill Community Foundation (MHCF) to establish a non governmental program; and 2) the possibility of developing a public arts program. She presented a power point presentation on permanent art as opposed to exhibition/rotating art as well as the key issues to consider.

Agency Member Tate said that there is an implication contained in the staff report that the Agency

Board has already delegated a lot of the key issues to the MHCF. He inquired whether the Agency Board stated that it would delegate public art to the MHCF as he did not recall this action.

Executive Director Tewes said that when the Agency Board met in January 2003, the Agency Board considered whether it should establish a city commission or committee for arts. Staff presented two major issues: 1) first amendment issues that come about any time government gets involved; and 2) the capacity of the organization both financially and staff-wise to a commission or committee. The Agency Board indicated that they would prefer to have a non governmental approach to public art.

Vice-chair Chang inquired whether the Agency Board would be giving the MHCF authority over public art.

Executive Director Tewes said that the Agency Board could adopt an ordinance that requires that private development spend 1% of the project on public art with no review. For civic projects, the Agency Board may want to have benefit of review by the MHCF. The question is whether the Agency Board wants to have a requirement or encouragement of public art.

Agency Member Sellers said that the City could set up an environment or framework so that it would encourage groups like the MHCF to have a role in public art. The MHCF could be set up as a vehicle through which they could develop this. He felt that it was important for the City to assist in the definition of the role of the MHCF as the Agency proceeds.

Agency Member Carr inquired what the City could be doing to encourage private development to develop art in public places.

Ms. Maskell responded that the Agency Board could encourage public art by providing extra Measure P points to residential developers who would donate money to an art fund.

Executive Director Tewes said that another alternative would be to request individuals who seek Redevelopment Agency financial assistance to advise how they would respond to the request for public art.

Vice-chair Chang inquired what percentage of public art would be desired (e.g., 2% 10%, or 50%).

Ms. Maskell said that it would depend on whether it would be a private project versus a public project. She indicated that some cities require that all developers contribute to an art fund.

Vice-chair Chang opened the floor to public comment.

Bob Benich said that staff omitted reference to a workshop held in January 2003 that was facilitated by the former Chief of Police. He indicated that the purpose of the workshop was to develop guidelines for a draft ordinance on public arts. He felt that this was getting to be too complicated and bureaucratic. He said that the original concept that he put out a few years ago was that there be some public art for civic projects. Somehow, public art has grown to look at developers for assistance. He recommended that the

City consider public art for public projects. As far as funding, he was confused as to why there is discussion regarding the use of the park funds. He felt that funding should come from a percentage of the cost of a building, budgeted at the onset of the project and that funding should not come from other funding sources. He agreed that when you have a requirement, policy or ordinance, someone has to oversee it. This would result in 1¼% cost to a project with 1% going toward the art project and ¼% being allocated toward administrative costs. He questioned whether the MHCF was the appropriate body to oversee public art for the City. Since the City is paying for public art, he felt that the City should have the final say on the art project to be funded. He felt that it made more sense for the City Council/Agency Board to appoint an art commission versus having the MHCF oversee public art. The art council could review the request for proposals, look at the design based on a criterion established for a particular project, and forward a recommendation to the Council/Agency Board. He reiterated that the Council/Agency Board should make the final decision as it is the agency funding the project.

Daryl Manning indicated that the MHCF has not had a discussion regarding public art and that the MHCF would need to meet with whoever is driving this issue. She supported Mr. Benich's position in terms of the Council/Agency Board having a say on the final decision as it is paying for public art. She did not believe that it was necessary to appoint an art council but that the City could appoint a cultural review board who would forward a recommendation to the Council with consultation from the MHCF or local community groups. She said that the City of Gilroy has an Arts and Cultural Commission and have a public art policy/program in place. She recommended that City staff contact the City of Gilroy and have a dialogue with them regarding their public arts program. She stated that she spoke with Sylvia Cook who is associated with the Arts Council Silicon Valley and also serves on the MHCF Board who indicates that she received a package on the development of a public arts policy. She said that she would forward this information to Ms. Maskell.

Sylvia Cook indicated that she is a member of the MHCF Board and the Morgan Hill Downtown Association. She said that the Downtown Association has been discussing the production of murals in the downtown. She felt that the City needs a cohesive area where individuals can come together. As far as the MHCF goes, she said that David Reisenauer and she met with Julie Spier and City Manager Tewes to discuss the possible role of the MHCF in a public arts program. She indicated that neither the MHCF bylaws nor its mission statement addresses public art. She stated that the MHCF is a granting agency. She stated that the MHCF will be conducting a leadership forum, a collaborative effort to be held on Tuesday, October 21. She indicated that all major non profit organizations will be invited to the forum and that the MHCF will try to put together a collaborative effort and a needs assessment program. She indicated that break out sessions will take place with different focus areas such as arts, life long learning, education, youths, seniors, science and technology. This particular conference will have break out groups that will address arts and life long learning. She indicated that Dave Craig will be addressing the Council on September 3 regarding the collaborative conference that will be taking place. She said that the MHCF would be happy to assist the City in anyway that it can but that the MFCF does not see this as one of its roles.

Chuck Dillmann said that a difficult question to answer is "what is art." He suggested that before going too much further with public art that the Council/Agency Board and staff visit surrounding cities to see how public art was implemented, how much was spent and what was achieved. He said that in one city,

public arts funding came from the Transient Occupancy Tax. It was not clear whether the agency received what they should for their money. Should public art be funded by the City, even through an art impact fee, it should be administered by somebody who is responsible to the Council such as an Arts Council. He felt that there should be a general survey of the community to determine how much support there is for public art. He noted that the City does not have a lot of money at this time and that the City is doing well to stay within budget. He said that there were other needs in the community such as weekend Library hours that could be served by the use of any excess funds in order to improve the lives of the population; more than having art to look at. However, he felt that a policy should be established for art provided by others (donated art). He cautioned the Agency Board not to move too fast and allow public art to get out of its control.

Wes Rolley indicated that he spoke with the arts commission of Mt. View who are responsible for selecting and siting public art. He said that if art is placed in a location where not many individuals will be able to view it, no one will care. He felt that there is a need for public art in this community. He said that spending time and having an association with an organization called Cultural Mission of Silicon Valley would be of assistance to the City as they have conducted several surveys that have been published about the status of art and art programs in the Valley. Last year, they brought the author of a Creative Society. The premise of this book was that as the economy grows, communities prosper to the extent that the town/community supports creative endeavors. By creating an environment that supports creativity and art, you create an environment that attracts creative people who will drive the economic interest of the community. He felt that this was an important concept, one that would require leadership from the Council/Agency Board.

Jeanne Gregg stated that she supports public art and felt that it will take the leadership of the Council/Agency Board to bring a focused vision to the establishment of a cultural arts advisory council if it wants to pursue public art. She did not believe that there was much support in the community for public art at this time. She felt that there has to be some type of leadership that encourages and supports a well thought out public arts program.

Don Jensen stated that he was disappointed with the suggestion of 1% of a project's funding being applied to a project to make it a meaningful public art presentation. He indicated that the Council has in place a Cultural Resources Commission in which the ARB serves this dual role. He does not know who wears the hat at this time, the Planning Commission or the ARB. He said that art can take on a significant importance. He felt that impact fees should apply to projects, including awarding points to Measure P projects who commit to public art. He expressed concern about negative politics. He felt that the downtown should be the focus/recipient of this process. He felt that public art needs to be a governmental process and that he would be willing to support a non governmental entity as a second choice. He stated that he was excited that public art was moving forward, ahead of the timeline, as the time is right to move forward with public art.

Wes Rolley stated that approximately one year ago, he submitted a proposal to the City to create tiles at the Community and Cultural Center. This was put on the back burner until the City established a policy on public art. He noted that a year has come and gone and that a public art policy has not been developed. He stated that his proposal is still on the table to bring public art to the Community and

Cultural Center.

Executive Director Tewes noted that the General Plan states that the City should develop planning standards to encourage the inclusion of public art in new and renovated non residential projects. Having heard this concept, the Council/Agency Board may wish to limit public art to public projects as suggested by Mr. Benich. He noted that a citizen has stated that the City should move faster on the action plan. At the Council retreat, the Council discussed whether or not to establish a City appointed commission. At that time, the Council articulated its policy statement. He indicated that he met with the MHCF who advised him of their plans for the Leadership Forum. Following the Leadership Forum, the City will have a report from the Foundation. He felt that the Foundation has demonstrated that they know more about art and art policies than City staff. If the focus is to be on public projects, the City will need to figure out how public art is to be financed. The Council/Agency Board could include in the budget funds to provide public art on public projects. He stated that the use of development impact fees is not an option being presented to the Council/Agency Board as these are fees that are charged to new development for the impact imposed to the existing community. He did not believe that the lack of art is likely to stand up under AB1600 as an appropriate impact fee. Imposing a new tax would require a vote of the people. He said that the City could generate new resources for art and make it available to help pay for public art, if desired. If the City simply wants to encourage public art, the City could discuss ways to encourage the private sector to provide public art. He noted that there are some cities that require public art by ordinance such that a private project of a certain size would be required to invest in public art which does not always involve overview by a commission or city staff.

Agency Member Tate stated that he would be opposed to identifying a certain cost/percentage of a project that should be set aside for public art. He said that he was not opposed to public art but that he would like flexibility in the amount dedicated to public art, depending on the facility. Also, if the City is going to earmark funds for art in public projects, the City has to include these funds as cost cuttings that the City may have to make as has been done on most city projects. He felt that public art should be weighed against everything else in terms of benefit to a project. He did not believe that the Council can trust to an outside organization to make the decision on what kind of art is to be provided in public facilities as there would be no accountability to the kinds of issues that may come up. He would like to proceed on answering questions and having a plan in place, even if the City cannot spend a lot of money.

Agency Member Carr felt that the City should be doing something as the time is right to proceed with public art. He said that every comment presented this evening was important. He felt that the Council/Agency Board has demonstrated its commitment to the arts, noting that the City developed a playhouse for performing arts. He felt that the community was supporting the community theater and other community theater endeavors in south county. He felt that the community was ready to proceed with public art. He agreed that the policy should be kept simple and that he was not interested in new fees or taxes. He did not believe that the time was right to establish a new commission because the City does not have the staffing capacity to do so at this time. He was comfortable having the Council/Agency Board being the deciding body on public art. He recommended that the creation of a public art account be investigated. If the City is providing benefits to private development, he felt that this is an area that the Council/Agency Board can look at as a leverage to encourage contributions

toward this fund or as an integration of art into private projects.

Agency Member Sellers felt that the Council was leaning toward supporting public art. However, he felt that the Council was in danger of doing what it has done in the past; moving forward with a project without allocating resources. He felt that the Council needs further definition of what it is looking for. He did not believe that it would be feasible to establish an art commission at this time as the City is financially and fiscally constrained. He noted that the City has not had growth in staff for some time. He felt that there were simple ways of looking at public art and that answers are not simple because the City is constrained by fiscal resources. If the City looked at a specific formula such as 1¼% public art for the community center, this would result in approximately \$200,000 that would have had to be set aside for art. He inquired what project element(s) would need to be eliminated to incorporate public art? He felt that it was important that it be understood that the City has incorporated a lot of art into its public facilities and that it will also incorporate public art within the indoor recreation center, the aquatics center and the library. If the only thing that the City requires is 1% of the project cost to be applied to public art, he did not believe that the City is being as creative as it should be. He felt that further consideration should be given to incorporating public art opportunities in the update of Measure P. He noted that the City has a basic supply and demand formula and that it has been the basis for a lot of things that have been incorporated into Measure P. The City has requested developers to go above and beyond Measure P commitments. He sees a direct correlation between asking somebody for a commitment to provide public art opportunities within their project or to donate into an art fund in order to receive Measure P points. He said that there may be some limitations in terms of individuals who would view/see art in the private sector. He felt that it would be worth exploring incorporating public art in the Measure P update/criteria. This would go a long way in helping to establish the resources for the development of public art. He agreed that citizen input has been helpful. He recommended that this item be agendized at a regular Council/Agency Board meeting in order to give a definition to public art.

Ms. Maskell said that should the City require that every project contribute 1% toward an art fund, the Council/Agency Board could decide how much funding should be applied toward a given project.

Vice-chair Chang noted that the Community and Cultural Center is completed and that all of the City projects in the pipeline are financially constrained. She stated that she did not see how the City could require 1% being applied toward public art. She sees that ¼% would be an appropriate amount to earmark toward public art.

Agency Member Tate felt that it would be important to answer a lot of the questions that were raised before addressing what the appropriate number should be. He felt that for some projects, 1% may be too little.

Agency Member Carr concurred that staff should reagendize this item for a regular Council/Agency Board meeting in order to answer questions raised by staff.

Action: *By consensus, the Agency Board **Provided** staff with comments on the Development of an Art in Public Places Policy; and **Directed** staff to agendize this item for a regular City Council/Agency Board meeting.*

Redevelopment Agency and City Council Action

CLOSED SESSIONS:

Agency Counsel/City Attorney Leichter announced the below listed closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

EXISTING LITIGATION:

Legal Authority: Pursuant to Government Code 54956.9(a)

Case Title: Kennedy et al. v. Davis et al.

Case Name/No.: Santa Clara County Superior Court Case No. CV 803679

Attendees: City Manager, City Attorney, Special Counsel Matt Jacobs

3.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code 54957

Public Employee Performance Evaluation: City Attorney

Attendees: City Council, City Attorney

OPPORTUNITY FOR PUBLIC COMMENT

Vice-Chair/Mayor Pro Tempore Chang opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Vice-Chair/Mayor Pro Tempore Chang adjourned the meeting to Closed Session at 6:12 p.m.

RECONVENE

Vice-Chair/Vice-Mayor Chang reconvened the meeting at 7:07 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced that in the case of Kennedy et al. v. Davis et al., the City Council determined not to continue the appeal on this matter.

SILENT INVOCATION

Vice-chair/Mayor Pro Tempore Chang requested that Henk Marselis, a leader in civic activities and a great member of the YMCA, be remembered as he passed away this morning.

PLEDGE OF ALLEGIANCE

At the invitation of Vice-Chair/Mayor Pro Tempore Chang, Alex Kennett led the Pledge of Allegiance.

PRESENTATIONS

The presentation by the Housing Action Coalition on Myths and Facts re: Affordable Housing was deferred to a future meeting.

Nick Singh informed the Agency Board/Council that in attendance were Brittany Bach, Brandon Bach, and Jonathan O'Mahen to address Project S.S.T.A.R.'s, Spanish Speaking Teens as Resources, indicating that there is a long list of individuals who are backing this program financially as well as endorsing the program. It is the program's goal to make English speaking teens aware of the language barrier that Spanish speaking teens face everyday in classrooms. It is felt that increasing the awareness of the language barrier can correct the situation. He requested City Council endorsement and financial donation/backing in support of the S.S.T.A.R.'s Program to help get the program off the ground.

Agency/Council Member Tate indicated that Jonathan O'Mahen, is a Youth Advisory Committee Member and their representative to Project YES. Mr. O'Mahen introduced the S.S.T.A.R.'s Program to Project Yes, indicating that Project YES endorsed the Program and will be receiving funding from Project YES, the funding mechanism of the Council to youth projects. Project Yes requests that additional information about the Developmental Assets be included into the program to justify funding.

The Agency Board/Council stated their endorsement of the S.S.T.A.R.'s Program.

CITY COUNCIL SUB-COMMITTEE REPORT

Council Member Sellers reported on the Morgan Hill Downtown Association. He indicated that there is a lot of concern in the Downtown Association about how the City would be looking at proposals (e.g., formal RFP process, who will be involved in the RFP process, etc.). He stated that he would like to make sure that the Economic Development Subcommittee (EDS) considers this concern and that there be further discussion of how the Downtown Association can be involved informally/formally. He recommended that there be discussion on how the City will proceed with the allocation of the funds before proceeding further. It was his understanding that this item will return to the Council on September 17 or 24.

Council Member Carr indicated that the EDS met this evening to talk specifically about the RFP process, the development of a criterion and how it will weigh through all of the applications. At a

minimum the EDS would like the Downtown Association to review the criterion and help with the establishment of the criterion.

Council Member Sellers announced that the Morgan Hill Community Foundation will be hosting its second fund raising event, a Hawaiian Luau, on Sunday, September 7 from 3-7 p.m. at the San Martin Pumpkin Patch.

Council Member Tate announced that on October 17 a commemorative event will be held in honor of Ken Tougus.

CITY MANAGER REPORT

City Manager Tewes reported on the testing of the City's water wells for perchlorate. He was pleased to report that all of the water delivered by the public water supply system to the City's customers meets or exceeds all state and federal standards. He indicated that the results this month suggest that all of the wells have been tested for perchlorate and found to be at a non detectible level. The Condit well did have a detection level of 4 ppm this month. However, he noted that it has been off line and will remain off line for a period of time. He said that the Nordstrom perchlorate treatment plant has been operational for several weeks and is meeting or exceeding all the standards established by the Department of Health Services.

CITY ATTORNEY REPORT

City Attorney Leichter indicated that she did not have a report to present this evening.

OTHER REPORTS

None.

PUBLIC COMMENT

Cindy Gobin stated that she read in the newspaper about the golf course on the Fry's property being built without benefit of permits. In Tuesday's newspaper, it states that the consequence of this activity is that Fry's only gets to play 18 rounds of golf per day. She found this to be unbelievable, unfair and unethical. She indicated that nitrates, water and pesticides are necessary to keep pests off the golf course and to keep the golf course green. She also read in the newspaper that the golf course was built without the performance of any environmental impact studies, indicating that they are going to be conducted after the fact. She felt that the damage has been done as a creek has been diverted. Also, discovered was that buildings were built without permits. She indicated that she knows an individual who just sold their home and was required to remove every structure that did not have a permit. She wondered why this did not happen to the Fry's property. She also read in the Morgan Hill Times several times this summer about the concern relating to the level of water in the aquifers and that everyone should be careful with the use of water. She felt that all residents of Morgan Hill are being extra careful in order to provide enough water for the 18-hole golf course without deciding in a fair way whether this

was an appropriate use. She felt that this was a question of ethics and fairness, and felt that the same rules should apply to everyone. She also heard that PG&E hooked up power to wells on the Fry's property without benefit of permits.

City Attorney Leichter provided a chronology history of the golf course. She indicated that a Temporary Use Permit (TUP) was issued today to the Math Institute. The TUP contains 27 conditions which were solicited and obtained from the U.S. Fish and Wildlife Service, the Regional Water Quality Control Board, the Santa Clara Valley Water District and other agencies with regulatory jurisdictions over the environmental issues. These agencies provided the City conditions to attach to the TUP, including monitoring of water quality, monitoring of weather conditions to determine watering, and mitigation measures to protect the endangered species/plants. Therefore, this was not simply a TUP so that the Institute can play golf. It is a TUP which enables the City to have some control over the environmental conditions that are taking place. The TUP does allow the Institute to play golf but in mitigation of the impacts that have occurred on the land. She indicated that the project has been under environmental review and that the environmental draft impact report should be issued at the end of September. She stated that the same regulatory agencies that have jurisdiction over the endangered species and the water quality, and sub surface water levels have been involved with the preparation of the environmental impact report. She said that the environmental impact report will contain numerous mitigation measures for the environmental damage that has taken place. This not simply a case of issuing someone a permit; but a case of issuing someone a permit with appropriate environmental conditions to mitigate the damage that has been caused on the property. She invited any member of the public to review the extensive environmental review, documentation and mitigation measures on this project, indicating that this is a lengthy review process.

Natasha Wist concurred with Ms. Gobin's comments. She felt that often times the wealthy and influential in cities, states and government get away with a lot while ordinary citizens have to go through a lengthy bureaucratic process to get something done. She said that she read in the newspaper that several of the City officials were defending Mr. Fry's building of the illegal golf course. She felt that it was a poor excuse to allow what has taken place based on a willingness to sponsor a mini PGA tournament that will bring money into the City.

Fran Odoms said that she understood that there is a family business that is trying to secure a permit through the City. She also understands that it has been several years that the family has tried to acquire the permit. She indicated that this is a very active family in the community with sons who graduated from Live Oak High School. She inquired why it has taken so long to issue the permits.

Bernie Mulligan thanked the Council and the City Manager for the work conducted the last 6-12 months. He felt that the City is on track with a lot of the projects in the pipeline. He felt that the projects can be accomplished but that it is a time and money problem. He requested that the Council track the budget as it is critical that the City watches money that goes out the door to fund the various projects. He was pleased to see the Council working well together. He felt that the downtown was heading in the right direction and that he is hoping that it becomes a viable downtown business district. He would like to see good restaurants of various types, good antique stores and businesses that will draw individuals to the downtown. He felt that the City has a very viable business future.

No further comments were offered.

Mayor Pro Tempore Chang said that as long as she has had a seat on the Council, the Council has tried to treat everyone equally and fairly to the best of its ability and that it will continue to do so.

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Carr and seconded by Agency Member Tate, the Agency Board, on a 4-0 vote with Chairman Kennedy absent, **Approved** Consent Calendar Items 2 and 3as follows:*

2. **JULY 2003 FINANCE & INVESTMENT REPORT**

Action: **Accepted** and **Filed** Report.

3. **CHAMBER OF COMMERCE AGREEMENT**

Action: **Authorized** the Executive Director to Prepare and Execute an Agreement, in an Amount Not to Exceed \$125,000, with the Morgan Hill Chamber of Commerce to Implement Their Community Development Marketing Plan.

City Council Action

CONSENT CALENDAR:

Mayor Pro Tempore Chang indicated that there were citizens in attendance to address Consent Calendar Item 5. Therefore, she pulled Item 5 from the Consent Calendar.

Action: *On a motion by Council Member Carr and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Approved** Consent Calendar Items 4, 6 and 7 as follows:*

4. **AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF HATCH & PARENT**

Action: **Authorized** the City Manager to Execute an Amendment to Agreement with the Law Firm of Hatch & Parent.

6. **FINAL MAP ACCEPTANCE FOR CAPRIANO PHASE V (TRACT 9525)**

Action: **Approved** and **Authorized** Recordation of the Final Map.

7. **APPROVAL OF RIGHT OF WAY PURCHASE AGREEMENT FOR TENNANT AVENUE WIDENING PROJECT (APN: 817-04-007)**

Action: 1) **Approved** Purchase; and 2) **Authorized** City Manager to Execute Purchase

Agreement with the Owner of APN 817-04-007 for the Acquisition of This Property, Subject to Approval as to Form by City Attorney, for a Total Compensation of \$47,741 Plus Escrow and Closing Costs.

5. APPROVAL TO JOIN SANTA CLARA COUNTY COLLABORATIVE INTEGRATED PEST MANAGEMENT (IPM) PROGRAM

Deputy Director of Public Works Struve presented the staff report.

Mayor Pro Tempore Chang opened the floor to public comment.

Bill Cox stated that it was his hope that the City will vote to join Santa Clara County in this program. He felt that it was primarily an issue of better health for the children and everyone living in the community if we can get rid of very toxic pesticides.

Natasha Wist stated that she has been working with the County of Santa Clara who passed an ordinance 8-9 months ago and hired a wonderful IPM coordinator in Narish Duggal. The IPM coordinator is trying to provide training to all Santa Clara County employees as the County has already implemented alternatives to pesticides on all County grounds. It is her hope that Morgan Hill will be able to adopt its own ordinance and get on the band wagon and help protect the environment. She heard that the five worst areas in the United States for air quality are in the Central Valley, from Riverside to Sacramento. She did not want this to happen to Santa Clara Valley and recommended that cities in the County start actively doing something to use alternatives to toxics in the environment.

Cinda Dalla, a San Martin resident, indicated that she has been physically affected by perchlorate. She stated that over the summer, she took an environmental science class in which pesticides were discussed, including the side affects that it poses on individuals. She highly recommended that alternatives to pesticides be used as they can contribute to learning disability.

Cynthia Stoker stated that she cares about the environment and her health. She felt that this is a great community, moving to Morgan Hill 2.5 years ago. She indicated that she has lived most her life in the outskirts of Moffit Field which had a problem with ground water contamination with TCE (tetrachloride ethylene), a toxic chemical that accumulated over many years by Fairchild Semiconductor. Mt. View and the federal government are investigating the contamination as individuals have come up with brain tumors and Parkinson's disease. She urged the Council to support the IPM training for gardeners who maintain city parks and to do the prudent thing. She felt that the \$1,000 per year for training is a cheap investment for individuals who reside in the community.

No further comments were offered.

Council Member Sellers inquired whether city staff will be receiving education training soon to understand how to reduce the use of pesticides or will staff await training for approximately 2 years from now pending the adoption of a program ordinance.

Deputy Director of Public Works Struve responded that there will be educational opportunities for city staff. As far as the timeline, he stated that Mr. Duggal will be going to the Board of Supervisors with this program in September for their support. Therefore, within the next 60 days, staff will start attending the County's educational sessions.

Council Member Sellers encouraged City staff to take advantage of this educational opportunity. He requested that staff do everything it can to help expedite this program.

Council Member Carr said that as a former citizen member to the Pollution Prevention Control Committee, the citizen's group assisted in the development of the ordinance. The citizen's group spent a lot of time with County staff, citizens and members from public health to put the ordinance together. He said that it was very thoughtful in how the County developed the ordinance and felt that it would be a very good resource in developing the City's ordinance. He stated his support of moving forward with this idea and using this model.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Kennedy absent: 1). **Received** Report; and 2) **Approved** Staff Recommendation to Join Santa Clara County's Collaborative IPM Program for Education and Training.*

Alex Kennett, Chair of the Chamber of Commerce's Economic Development Committee (EDC), addressed Consent Calendar Item 3, thanking the Council for approving the Chamber of Commerce's agreement. He indicated that in attendance this evening were Sunday Minnich, Executive Director of the Chamber and sits on the EDC; Randy Toch, Member of the Chamber Board; Ramona Etchibarne, member of the EDC; and Dan Craig and Laura Brunton, EDC members and Chamber Board Members. It is the Chamber's belief that the approval of the agreement will be an investment. He stated that the City will find that there will be a step up in the performance of the EDC.

Council Member Carr said that as a member of the City's Economic Development Subcommittee, he thanked the Chambers willingness to address concerns that it brought to the table, especially in the area of accountability, review, and setting/improving goals. He felt that the agreement approved this evening has addressed these areas.

City Council Action

OTHER BUSINESS:

8. JUNE 2003 FINAL FINANCE AND INVESTMENT REPORT

Finance Director Dilles presented the staff report, indicating that when staff brought to the Council the 2003-04 budget, staff made certain projections about where the City would be at the end of the year in June 2003. At that time, staff projected that the City would have an operating loss of approximately \$600,000 for the year. Since finalizing all of the City's transactions and closed the books, the loss was actually approximately \$300,000 rather than \$600,000. This was primarily due to better revenues in

property taxes. He felt that this should help the City in the coming year with the higher revenue base.

City Treasurer Roorda provided the Council with an update on City finances, looking at the General Fund. He said that it is a difficult economic climate today. He said that although the City's finances are not all that bright, it is pretty good as City staff has reacted well to Council's direction to reduce expenses. He noted that revenues have come in a little bit higher than expected. He said that the City has a good year behind it given the circumstances and the environment we're in. He felt that the City was much better off than a number of other cities in the County and statewide. He presented a power point presentation that addressed general revenue sources for the City's General Fund. He depicted actual results for the year, and how it compared with the budget, and how far off the City was from the budget in terms of dollars and percentage terms. He noted that the City came in at about 3.5% under budget in terms of revenue. He said that despite the fact that the City did not achieve its budgeted amount, the City managed to grow over last year. He indicated that staff reduced expenses by 6% from the budgeted amount, bringing it down \$1+ million below the levels that were originally budgeted. He indicated that the General Fund covers the expenses associated with police, administrative services and fire. He noted that the Chief of Police managed to bring down his budget by almost 6%. Although the City grew in the administrative area to try and achieve some of its objectives, the City still managed to bring this down substantially 11%, helping to contribute to the overall 6% compared to budget reduction and expenses; better matching the City's expenses with revenues. He said that the City had some mid year budget adjustments such that staff felt that it would spend almost \$800,000 more than it would bring in revenue. As the City got closer to the end of the year, staff was able to look at where it was and where it thought it would be. Therefore, it was being projected, through the budget cycle for FY 03-04, that there would be an approximately \$600,000 deficit. What was achieved were some pleasant surprises such as property taxes. This limited the deficit to \$300,000, placing the City ahead where it thought it would be budget-wise and where it thought it would be when staff was projecting at the end of the year. He noted that next year's budget shows that the City is growing slightly in both revenue projections and expenses but that this seems to be in line with the projections just slightly higher in terms of a deficit for the coming year.

City Manager Tewes clarified that administration numbers includes the recreation division. When the City opened the Community Center and expanded recreational services, he felt that it was recorded as what the City Treasurer calls "administrative costs."

Mayor Pro Tempore Chang opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Accepted** and **Filed** the Report.*

9. PRESENTATION OF SOUTH COUNTY REGIONAL WASTEWATER AUTHORITY (SCRWA) CAPACITY EXPANSION NEEDS

Director of Public Works Ashcraft informed the City Council that in attendance were Christopher Cain and Simon Hart from Montgomery Watson Harza, long time design engineers for the SCRWA plant who will be presenting a power point presentation and answer questions that Council may have.

Christopher Cain presented a power point presentation on the SCRWA Capital Improvements Program for 2000-2020. He indicated that the first item completed is an 8.5 mgd treatment upgrade. The next items to be completed included a river discharge study and a wetland enhancement studies. Also, proposed are reclamation plant expansions with an expansion to 12.75 mgd treatment scheduled to be on line by 2009. He identified other improvements made to the treatment plant. He stated that he has not yet gone before the regional board and request that the capacity of the plant be upgraded. He does not have the implementation costs for the output of the proposed studies included in the CIP. There are some monies included for an early version of the wetlands concept. He indicated that a pipeline rehab has been completed for the existing distribution pipeline and that a pipeline to the Calpine facility has been completed. The project being launched at this time is a filter expansion. In the future, there will be an expansion and the addition of the third oxidation ditch to the plant. It is expected that this project will need to be brought on line by 2009 with the design commencing in 2005. It is expected that the CIP would see substantial \$40 million expenditure in the 2007-08 timeframe, adding another second oxidation ditch and secondary clarifier. He stated that the SCWRA Board and technical advisory committee are looking at the plans continuously, making a push over the next few months to update the planning materials. He said that the needs show that the actual facilities are coming along. In response to Council Member Sellers question, Mr. Cain indicated that the substantial expansion will serve the communities out to 2020.

Council Member Tate stated that it was his belief that the 58%/42% has always been the Gilroy/Morgan Hill split but noticed that the percentage has varied a bit from the past. He noted that Mr. Cain is projecting the percentage as being constant.

Mr. Cain indicated that the percentage flow shifts slightly. He felt that the current percentage split is 45-46/54-55. However, this is projected to change. He indicated that the percentage flows are consistent with both general plans.

Action: **No Action Taken** - *Informational Only.*

10. CONVERSION OF RESIDENTIAL UNITS FOR COMMERCIAL USES IN THE DOWNTOWN AREA

Director of Business Assistance and Housing Services Toy presented the staff report. He identified the three proposed revisions to the conversion of residential units for commercial uses in the downtown area. He indicated that staff proposes to return with the revisions/amendments to the Council as soon as possible (sometime in September).

Council Member Carr noted that the Council can amend the municipal code to address the first two exemptions on the different fees. However, amendment to the fire code relating to the fire sprinkler requirements would need to be negotiated with the County Fire District and would need to return to the Council at a later date. He said that the Economic Development Subcommittee did not want the first two items to get slowed down with any conversation with the Fire Department relating to fire codes.

Council Member Sellers noted that a property owner cannot move forward with the conversions without amendment relating to the fire code.

Mayor Pro Tempore Chang inquired whether there would be a limitation on the number of residential units that can be converted to commercial uses in the downtown area without having a massive exodus of residential units.

Mr. Toy said that this item addresses primarily a residence converting into a commercial use. He noted that the Skeels building is a mixed use and that staff is not envisioning nor intending the Skeels would be allowed to take their studio units and convert them into office space.

Council Member Carr said that the loss of residential units was an important issue to the Economic Development Subcommittee as it is not interested in losing residential units. However, in helping to move the goal of the Downtown Plan forward, the Subcommittee is asking whether a residential unit that is converted into a commercial use can be added as an allocation into the Measure P process. The Subcommittee is taking a look at this so that the City can replace the residential unit. The Subcommittee is looking at doing some things, policy-wise, with the possible new allocation. He indicated that staff is investigating these questions for the Subcommittee.

Mayor Pro Tempore Chang felt that item 2 could be used to resolve a concern addressed under public comment earlier this evening.

Mayor Pro Tempore Chang opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Directed** Staff to Revise the Municipal Code as Recommended by the Council's Economic Development Subcommittee Regarding the Conversion of Residential Units for Commercial Uses in Downtown.*

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Directed** Staff to **Bring** Such Revisions to the Council for Consideration at their Meeting in September 2003.*

Redevelopment Agency and City Council Action

OTHER BUSINESS:

11. AFFORDABLE HOUSING STRATEGY

Director of Business Assistance and Housing Services Toy presented the staff report and recommended that the Council/Agency Board adopt the Affordable Housing Strategy. He indicated that part of the Department's work plan for this year is the development of an implementation work plan for the strategy and bringing that back to the Council/Agency Board by the end of the year.

Agency/Council Member Carr stated that he was looking forward to seeing the implementation work plan for the Affordable Housing Strategy.

Vice-Chair/Mayor Pro Tempore Chang opened the floor to public comment. No comments were offered.

Action: *On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Sellers, the Agency Board/City Council, on a 4-0 vote with Chairman/Mayor Kennedy absent, **Adopted** the Affordable Housing Strategy.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Vice-Chair/Mayor Pro Tempore Chang adjourned the meeting at 8:43 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, AGENCY SECRETARY/CITY CLERK